

The opinion in support of the decision being entered today
is not binding precedent of the Board.

Filed by: Trial Section Merits Panel
Mail Stop INTERFERENCE
Board of Patent Appeals and Interferences
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450
Tel: 571-272-9797 Fax: 571-272-0943

Paper No. 48-24
Entered: April 5, 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MATTHEW T. SCHOLZ, MICHAEL D. DELMORE,
and DANIEL W. DAVIS

Junior Party
(Patent No. 5,342,291)¹

v.

HORACE L. FREEMAN and HEE K. YOON

Senior Party
(Application 08/335,981)²

Patent Interference No. 105,458
(Technology Center 3700)

Before LEE, TORCZON and MOORE, Administrative Patent Judges.

LEE, Administrative Patent Judge.

Judgment -- Order to Show Cause -- Bd. R. 202(d)

¹ Based on Application 07/751,725, filed August 29, 1991. The real party in interest is BSN Medical, Inc.

² Filed November 8, 1994. Accorded the benefit of Application 07/593,852, filed October 5, 1990. The real party in interest is BSN Medical, Inc.

Interference No. 105,458
Scholz v. Freeman

1 Both junior party's involved patent and senior party's involved application have been
2 assigned to BSN Medical, Inc. (Paper 37). The common assignee has elected the senior party
3 applicant to prevail on priority (Paper 39). Accordingly, it is

4 **ORDERED** that judgment on priority as to the subject matter of Count 1 is herein
5 entered against junior party MATTHEW T. SCHOLZ, MICHAEL D. DELMORE, and DANIEL
6 W. DAVIS;

7 **FURTHER ORDERED** that junior party MATTHEW T. SCHOLZ, MICHAEL D.
8 DELMORE, and DANIEL W. DAVIS is not entitled to claims 1-35 of its involved Patent No.
9 5,342,291;

10 **FURTHER ORDERED** that if there is a settlement agreement, the parties should note
11 the requirements of 35 U.S.C. § 135(c) and Bd. Rule 205; and

12 **FURTHER ORDERED** that a copy of this judgment be placed in the respective
13 involved application or patent of the parties.

/ss/ Jameson Lee
JAMESON LEE
Administrative Patent Judge

/ss/ Richard Torczon
RICHARD TORCZON
Administrative Patent Judge

/ss/ James T. Moore
JAMES T. MOORE
Administrative Patent Judge

Interference No. 105,458

Scholz v. Freeman

By Electronic Transmission:

Counsel for Junior Party Scholz:

David R. Fairbairn, Esq.
KINNEY & LANGE, P.A.
312 South Third Street
Minneapolis, MN 55415-1002
drfairbairn@kinney.com
pkoziol@kinney.com

Counsel for Senior party Freeman:

W. Thad Adams, III, Esq.
ADAMS EVANS P.A.
201 South College Street
Suite 2350
Charlotte, NC 28244
wta@adamspat.com
jmh@adamspat.com